

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JAMES WOODSON, and Family,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-cv-991

ROGERS FOODLAND, its Insurer,

Defendant.

JUDGMENT ORDER

By Standing Order entered on July 21, 2004, and filed in this case on September 13, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“proposed F & R”]. Magistrate Judge VanDervort filed his proposed F & R on May 3, 2006 [Docket 39]. In that filing, the magistrate judge recommended that this Court (1) grant Defendant’s motion for summary judgment [Docket 32], and (2) remove this matter from the Court’s active docket.

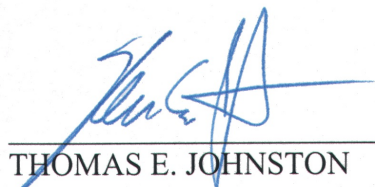
In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort’s proposed F & R. The Clerk’s Office mailed Magistrate Judge VanDervort’s proposed F & R to the Plaintiff at his supplied address on May 3, 2006. That mailing was returned to the Clerk’s Office as undeliverable on May 9, 2006, and the proposed F & R was then resent to Plaintiff at his new mailing address on May 9, 2006 [Docket 40]. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right

to a *de novo* review by this court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the Court adopts the findings and recommendations contained therein. Accordingly, the Court hereby (1) **GRANTS** Defendant's Motion for Summary Judgment [Docket 32], and (2) **DIRECTS** the Clerk to remove this action from the Court's active docket.

The Clerk is further directed to mail a copy of this Judgment Order to all counsel of record, the plaintiff, *pro se*, and Magistrate Judge VanDervort.

ENTER: June 19, 2006

A handwritten signature in blue ink, appearing to read 'Th. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE